



## **CUSTOMER IDENTIFICATION GUIDANCE**

Customer identification documentation is acquired during the initial account set-up phase. Once documented, the customer identification will not need to be updated unless there is a significant change in the account relationship. Trust company management is strongly encouraged to consult with legal counsel or others with knowledge and expertise in the field in developing a comprehensive Customer Identification Program (CIP) that is specific to each trust company's respective business plan.

### Customer Identification Program

The intent of the regulation, at a minimum, is to require financial institutions to implement reasonable procedures to verify the identity of any person seeking to open an account, to the extent reasonable and practicable; maintain records of the information used to verify the person's identity; and determine whether the person appears on any government lists, particularly lists of known or suspected terrorists or terrorist organizations provided to the financial institution by any governmental agency. The CIP covers accounts established to provide custodial and trust services. Generally, a trust company must implement a written CIP commensurate with its size and complexity that at a minimum addresses the following:

(1) Identity Verification Procedures - The CIP must include risk-based procedures for verifying the identity of each customer to the extent reasonable and practicable. The procedures must enable the company to form a reasonable belief that it knows the true identity of each customer. At a minimum, these procedures must contain the following elements:

(A) Customer Information Required – The CIP must contain procedures for opening an account that specify the identifying information that will be obtained from each customer. At a minimum the following information from the customer prior to opening the account should be obtained:

1. Name, date of birth (for an individual), residential address;
2. Principal place of business address for a corporation;
3. Identification number; for a U.S. person a driver's license, taxpayer identification number, or other government issued photo ID. For a Non- U.S. person a taxpayer identification number, passport number, and country of issuance, alien ID card number, or other government issued photo ID.

(B) Customer Verification – The CIP must contain procedures for verifying the identity of the customer, using the information obtained in section (A) above. The procedures must describe when the company will use documents, non-documentary methods, or a combination of both.

(1) Verification through documents – for individuals this may include unexpired government-issued identification evidencing nationality or residence and bearing a photograph or similar safeguard, such as a driver's license or passport. For a corporation or partnership documents showing the existence of the entity, such as articles of incorporation, government issued business license, partnership agreement, or trust agreement.

(2) Verification through Non-documentary methods – The CIP must contain procedures that describe the non-documentary methods the company will use. These methods may include contacting a customer; independently verifying the customer's identity through the comparison of information provided by the customer with information obtained from a consumer reporting agency, public database, or other source; checking references with other financial institutions; and obtaining a financial statement.

The companies non-documentary procedures must address situations: (1) where an individual is unable to present an unexpired government-issued identification document that bears a photograph or similar safeguard; (2) the company is not familiar with the documents presented; (3) account is opened without obtaining documents; (4) customer opens account without appearing at the company; and (5) other circumstances that increase the risk the company will be unable to verify the true identity of a customer.

(3) Additional Verification for certain Customers – The CIP must address situations where, based on the company's risk assessment of a new account opened by a customer that is not an individual, the company will obtain information about the individuals with authority or control over such account, including signatories, in order to verify the customer's identity. This verification method only applies when the above verification methods cannot be utilized.

(4) Lack of Verification – The CIP must include procedures for responding to circumstances in which the company cannot form a reasonable belief that it knows the true identity of a customer. These procedures should describe: (1) When the company should not open an account; (2) The terms under which a customer may use an account while the company attempts to verify the customer's identity; (3) When the company should close an account after attempts to verify a customer's identity have failed; and (4) When the company should file a suspicious activity report in accordance with applicable law and regulation.

(2) Recordkeeping – The CIP must address procedures for making and maintaining a record of all information obtained under the procedures outlined above.

(A) Required Records – At a minimum the records must include:

(1) All identifying records obtained under Section (1) (A).

(2) A description of any document that was relied on under Section (1) (B) (1).

(3) A description of the methods and the results of any measures undertaken to verify the identity of the customer under Section (1) (B) (2) and (3)

(4) A description of the resolution of any substantive discrepancy discovered when verifying the identifying information obtained.

(B) Retention of Records – The department must retain the information in Section (2) (A) for five years after the date the account is closed. Further the company must maintain the information in Section (2) (A) for five years after the record is made.

(3) Comparison with Government Lists – The CIP must include procedures for determining whether the customer appears on any list of known or suspected terrorists or terrorist organizations issued by the Office of Foreign Assets Control (OFAC). It is the individual trust companies responsibilities to secure a “link” for OFAC list comparisons and report any “hits” to the agency. The procedures require the company to make such determination within a reasonable period of time after the account is opened. OFAC reporting guidance can be found at the following website: <http://www.ustreas.gov/offices/enforcement/ofac/>.

*Financial institutions should be aware that their responsibilities to share information with the Financial Crimes Enforcement Network (FinCEN), a bureau of the Treasury, are separate and distinct from the rules and regulations of OFAC. FinCEN issues Section 314(a) notices, approximately every two weeks. When these notices (which identify individuals and entities suspected of illegal activities) are received, financial institutions are required to compare their customer list with the list of businesses and individuals on the 314(a) notice to determine and report any “hits.” FinCEN does not require non-federally regulated trust companies to comply with Section 314(a) notice requirements; however, individual State regulatory authorities have the authority to impose this requirement on their respective financial institutions. The matter is currently under Division consideration.*

(4) Customer Notice – The CIP must include procedures for providing company customers with adequate notice that the company is requesting information to verify their identities.

(A) Adequate Notice – Notice is adequate if the company generally describes the identification requirements of this section and provides the notice in a manner reasonably designed to ensure that a customer is able to view the notice, or is otherwise given notice before opening an account. (Examples post notice in lobby, on website, on account applications, or use any other form of notice written or oral.)

#### Customer Examples

Financial institutions are not required to look through trust, escrow, or similar accounts to verify the identity of beneficiaries and will only be required to verify the identity of the named accountholder (customer). Customer examples include the following:

1. Jane Doe wants to open an Investment Management Agency (IMA) for herself

Jane Doe is the Customer

2. Jane Doe wants to open the Jane Doe Revocable Trust

Jane Doe is the Customer

3. Jane Doe wants to open the Jane Doe Revocable Trust IMA, Jane Doe Trustee

Jane Doe is the Customer

4. Jane Doe wants to open an IMA for the John Doe Revocable Trust, Jane Doe Trustee

Jane Doe, is the Customer

5. John and Jane Doe want to open the John and Jane Doe IMA

John Doe and Jane Doe are each Customers

6. John and Jane Doe want to open the John and Jane Doe Trust

John Doe and Jane Doe are each Customers

7. Jo Doe dies, ABC Bank is named in the trust document as successor trustee of the Jo Doe Revocable Trust

Jo Doe Revocable Trust is the customer

8. John Doe is trustee of the Jason Doe Revocable Trust and holds the power to appoint a successor trustee; John resigns in favor of ABC BANK.

John Doe is the customer

9. Jane Doe is trustee of the Janelle Doe Trust. The trust names ABC BANK successor trustee, should Jane no longer desire to serve or is unable to serve as trustee. Jane Doe resigns as trustee.

The Janelle Doe Trust is the customer

10. John Doe wants to open the John Doe Irrevocable Trust f/b/o Baby Doe

John Doe is the Customer

11. Jack Doe's will provide for the creation of the Jack Doe Testamentary Trust, ABC BANK Bank, Trustee. Jack Doe dies

The Jack Doe Testamentary Trust is the customer

12. ABC BANK is trustee of the Julie Doe Revocable Trust. Julie Doe dies and the trust splits into a family trust and a marital trust

Julie Doe Revocable Trust is the customer

13. ABC BANK is trustee of the Janice Doe Education Trust f/b/o the Doe Grandchildren. To comply with the terms of the governing instrument, separate trust shares are created for each of the three Doe grandchildren, Jamie, Jackson, Julia Doe

Janice Doe Education Trust is the customer

14. Jae Doe is a beneficiary of the Jo Doe Trust and is entitled to her distributive share. Jae wishes to open an IMA with her distribution.

Jae Doe is the customer

15. Judge Somebody appoints ABC BANK executor of the James Doe Estate. ABC BANK opens an estate account

ABC BANK is the customer – Customer Identification is not necessary

16. Judge Anybody appoints ABC BANK conservator of the Jack Doe Conservatorship. ABC BANK opens a conservator ship account.

ABC BANK is the customer – Customer Identification is not necessary

17. John Doe wants to open the Doe Investment Corp Custodial Account

Doe Investment Corp is the customer

18. John Doe wants to open The John Doe Corp 401(k) Plan

The account is governed under ERISA and therefore exempt from CIP

19. Josh Doe wishes to roll-over his retirement plan balance into an IRA

Josh Doe is the customer

20. Jeremy Doe wants to open an IRA. He names his spouse and two children as beneficiaries of the IRA.

Jeremy Doe is the customer

21. The Doe Investment Corp serves as investment advisor to the Doe Foundation. To facilitate record keeping, securities settlement, statement consolidation, etc., the Doe Investment Corp

wants to set-up a series of custodial accounts, one for each of the sub-advisors that the Doe Investment Corp has hired to help manage the Doe Foundation assets.

The Doe Investment Corp is the customer